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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/502,510

05/02/2005

Mohamed Raafat El-Gewely

04-585

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7590

06/04/2010

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EXAMINER

STEELE, AMBER D

ART UNIT

PAPER NUMBER

1639

MAIL DATE

DELIVERY MODE

06/04/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Continued

Please note: the examiner for the present application has changed. However, the Technology Center (TC1600) and Art Unit (AU 1639) remain the same.

The amendment filed May 24, 2010 under 37 CFR 1.116 in reply to the final rejection has been considered but is not deemed to place the application in condition for allowance and will not be entered because of the following:

- a. The proposed amendment requires further consideration and/or search (e.g. altered dependency and new claims 56-66).
- b. The proposed amendment may necessitate the modification of outstanding rejection(s) to address the new limitation.
- c. The proposed amendment may necessitate the raising of new prior art rejections.
- d. The proposed amendment may necessitate the raising of new 112 issues.
- e. There is no convincing evidence under 37 CFR 1.116(b) why the proposed amendment was not earlier presented.
- f. Applicants arguments of the prior art of record are moot, in part (see below), since the arguments are based on the proposed amendments that have not been entered.
- g. For all the reasons above, the amendment does not place the application in better condition for allowance and/or appeal.

Arguments and Response

The objection to claim 38 is maintained since the proposed claim amendments received on May 24, 2010 were not entered (i.e. claim 38 is not presently canceled).

Applicants' arguments directed to the rejection under 35 USC 103 (a) as being unpatentable over Shibata et al., Noaln et al., Daniels et al., and in view of Tenson et al. if necessary for claims 38, 41, 42, 45, 48-51, 54, and 55 were considered but are not persuasive for the following reasons.

Applicants contend that Shibata et al. teach that peptides capable of restoring p53 activity need to have specific features (i.e. larger peptides than presently claimed). Applicants contend that Noaln et al. do not teach peptides 2-8 amino acids in length. Applicants contend that Daniels et al. do not teach restoring the function of mutant p53 in an intracellular environment. In addition, applicants contend that there is no motivation to combine the references.

Applicants' arguments are not convincing since the teachings of Shibata et al., Noaln et al., Daniels et al., and Tenson et al. render the method of the instant claims *prima facie* obvious.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Regarding the motivation, applicants are respectfully directed to the motivation in the rejection of record.

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Applicants' arguments directed to the rejection under 35 USC 103 (a) as being unpatentable over Shibata et al., Noaln et al., Daniels et al., Tenson et al., and Thornborrow et al. if necessary for claims 38, 41-45, 48-51, 54, and 55 were considered but are not persuasive for the following reasons.

Applicants contend that Shibata et al. teach that peptides capable of restoring p53 activity need to have specific features (i.e. larger peptides than presently claimed). Applicants contend that Noaln et al. do not teach peptides 2-8 amino acids in length. Applicants contend that Daniels et al. do not teach restoring the function of mutant p53 in an intracellular environment. Applicants contend that Thornborrow et al. do not teach screening peptide libraries. In addition, applicants contend that there is no motivation to combine the references.

Applicants' arguments are not convincing since the teachings of Shibata et al., Noaln et al., Daniels et al., Tenson et al., and Thornborrow et al. render the method of the instant claims *prima facie* obvious.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Regarding the motivation, applicants are respectfully directed to the motivation in the rejection of record.

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Applicants' arguments directed to the provisional rejection on the ground of nonstatutory obviousness-type double patenting as being unpatentable over 10/493,582 for claims 38, 41-45, 48-51, 54, and 55 were considered but are not persuasive for the following reasons.

Applicants contend that the claims are patentably distinct and that the rejection should be held in abeyance.

Applicants' arguments are not convincing since the claimed invention of 10/493,582 renders obvious the method of the instant claims (see rejection of record). In addition, while a request may be made that objections or requirements as to form not necessary to further consideration of the claims be held in abeyance until allowable subject matter is indicated, the present is a rejection and will not be held in abeyance (see MPEP § 714.02).

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Takimoto et al., 2002, Cancer Biology & Therapy, 1: 47-55; U.S. Patent 6,180,343; and U.S. Patent 6,821,728.

Future Communications

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AMBER D. STEELE whose telephone number is (571)272-5538. The examiner can normally be reached on Monday through Friday 9:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low can be reached on 571-272-0951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Amber D. Steele/
Primary Examiner, Art Unit 1639